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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,380	04/02/2001	Alejandro R. Madrid	H0001743(4780)	1659

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05/20/2004

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EXAMINER

KIM, AHSHIK

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/825,380

Applicant(s)

MADRID ET AL.

Examiner

Ahshik Kim

Art Unit

2876

AK

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 10-17 is/are rejected.
- 7) ☒ Claim(s) 5-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response

1. Receipt is acknowledged of the response filed on February 24, 2004. December 20,
5 2003. Currently, claims 1-17 remain for examination.

Drawings

2. This application has been filed with informal drawings, which are acceptable for
examination purposes only. Formal drawings will be required when the application is allowed or
10 in response to this Office Action.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the
basis for the rejections under this section made in this Office action:

15 A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
patent by another filed in the United States before the invention by the applicant for patent, except that an
20 subsection of an application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
subsection of an application filed in the United States only if the international application designated the United
States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, and 10-17 are rejected under 35 U.S.C. 102(e) as being anticipated by
25 Bennett, Jr. et al. (US 6,229,448, "Bennett" hereinafter).

Re claim 1, Bennett teaches a smart container assembly 10 (see figure 1, abstract)
comprising a hermetically sealed storage cavity 14, a monitoring assembly including a sensor 18,

Art Unit: 2876

and I/O interface (transmitter module) 24 communicating with either repeater 26 or the receiver 28 (col. 2, lines 66+). As shown in figure 3, the transmitter, installed outside of the sealed storage cavity, is further comprised of A/D converter, a microprocessor 68 which, is programmed to monitor the incoming signal (col. 4, lines 44+). It is also inherent that the tank and other openings for sensors 18 and 22 are sealed that the liquid would not escape through any gaps in connecting areas.

Re claims 2-4, the recording assembly is comprised of a first part 22/24 and the second part 18/16 (sensing mechanism) which is electrically connected together and to I/O 24.

Re claims 10-14, although Bennett's embodiment may not teach on transporting containers, such sensing and recording features can be applied to transportable tanks. Also communication between the I/O and receiver can occur any time including before and after transporting or particular event.

Re claims 10-15, the container information can be observed before and after an event (i.e., transportation)

Re claims 16 and 17, Bennett's embodiment is primarily on storing liquid material (col. 1, lines 14+). However, it is Examiner's view that the container can hold any other material one chooses to carry. Since the embodiment/structure disclosed by Bennett is capable of carrying snap-on material and organic polymer without structural modification, the reference still meets these claims.

Allowable Subject Matter

5. Claim 9 is allowed

Art Unit: 2876

6. Claims 5-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: the
5 claims are directed at a smart container usable in carrying spin-on material, organic polymer, or similar material. The container comprises a monitoring assembly receiving cavity for the monitoring assembly. The receiving cavity protrudes into the container, but hermetically isolated from the storage cavity. The container further contains a sensing mechanism in the form of a dip tube, recording mechanism, and I/O interface. Such structure is not disclosed by the
10 prior arts cited in previous Office Action(s).

Response to Arguments

8. Applicant's arguments filed on February 24, 2004 have been carefully considered. Presented claims are again reviewed as they are written and in view of previously cited
15 references.

Upon the review, it is the Examiner's opinion that some claims are allowed or allowable if they are written to include the limitations of the base claim as indicated in paragraphs 5-7 above.

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Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahshik Kim whose telephone number is (571)272-2393. The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday. The fax number directly to the Examiner is (571)273-2393.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571)272-2398. The fax phone number for this Group is (703)872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

Ahshik Kim
Patent Examiner
Art Unit 2876
May 14, 2004

MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800